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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION**

10  
11 MARSHALL S. SANDERS and  
LYDIA O. SANDERS AS TRUSTEE  
12 OF THE MARSHALL AND LYDIA  
SANDERS TRUST DATED APRIL  
13 20, 1990,

14 Plaintiffs,

15 vs.

16 BANK OF AMERICA, N.A.; WELLS  
FARGO BANK, N.A., AS TRUSTEE,  
17 ON BEHALF OF THE HOLDERS OF  
THE HARBORVIEW MORTGAGE  
18 LOAN TRUST MORTGAGE LOAN  
PASS-THROUGH CERTIFICATES,  
19 SERIES 2007-1; NATIONAL  
DEFAULT SERVICING  
20 CORPORATION; SELECT  
PORTFOLIO SERVICING, INC.; and  
21 DOES 1-20,

22 Defendants.

CASE NO. 8:15-CV-00935-AG-AS  
**REQUEST FOR JUDICIAL  
NOTICE IN SUPPORT OF  
MOTION TO DISMISS  
PLAINTIFFS' INITIAL  
COMPLAINT, FILED BY  
DEFENDANT BANK OF  
AMERICA, N.A.**

Complaint Filed: June 11, 2015

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24 Pursuant to Rule 201(b)(2) of the Federal Rules of Evidence Defendant Bank  
of America, N.A. respectfully request that the Court take judicial notice of the  
25 following documents submitted in support of its motion to dismiss Plaintiffs'  
26 Complaint:  
27

28 1. Promissory Note, dated December 22, 2006 and signed by Plaintiff

1 Marshall Sanders, evidencing a \$1,435,000.00 loan from Countrywide Bank, N.A.  
2 to Plaintiffs; a true and correct copy is attached as **Exhibit A**.

3       2.     Deed of Trust, dated December 22, 2006, and recorded in the Official  
4 Records of the Orange County Clerk-Recorder on January 5, 2007 as Document No.  
5 2007000008779; a true and correct copy is attached as **Exhibit B**.

6       3.     Assignment of Deed of Trust, dated November 19, 2009, and recorded  
7 in the Official Records of the Orange County Clerk-Recorder on December 30, 2009  
8 as Document No. 2009000698145; a true and correct copy is attached as **Exhibit C**.

9       4.     Assignment of Deed of Trust, dated November 28, 2011, and recorded  
10 in the Official Records of the Orange County Clerk-Recorder on December 6, 2011  
11 as Document No. 2011000620147; a true and correct copy is attached as **Exhibit D**.

12       5.     Notice of Default, dated March 5, 2013, and recorded in the Official  
13 Records of the Orange County Clerk-Recorder on March 6, 2013 as Document No.  
14 2013000138230; a true and correct copy is attached as **Exhibit E**.

15       6.     Notice of Trustee's Sale, dated October 28, 2014, and recorded in the  
16 Official Records of the Orange County Clerk-Recorder on October 29, 2014 as  
17 Document No. 20140004386; a true and correct copy is attached as **Exhibit F**.

18       7.     Complaint from *Sanders v. Bank of America, N.A.*, et al., filed in  
19 Orange County Superior Court, Case No. 30-2014-00757782, on November 21,  
20 2014; a true and correct copy (without exhibits) is attached as **Exhibit G**.

21       8.     Order Granting Ex Parte Application and Motion for Temporary  
22 Restraining Order to Cancel and Enjoin Trustee's Sale Scheduled for November 24,  
23 2014 and for Preliminary Injunction, filed in Orange County Superior Court, Case  
24 No. 30-2014-00757782, on November 21, 2014; a true and correct copy is attached  
25 as **Exhibit H**.

26       9.     Notice of Ruling at OSC re: Preliminary Injunction, filed in Orange  
27 County Superior Court, Case No. 30-2014-00757782, on May 18, 2015; a true and  
28 correct copy is attached as **Exhibit I**.

1       10. Notice of Failure to Post Bond, filed in Orange County Superior Court,  
2 Case No. 30-2014-00757782, on or about June 10, 2015 a true and correct copy is  
3 attached as **Exhibit J**.

4       11. Request for Dismissal, filed in Orange County Superior Court, Case  
5 No. 30-2014-00757782, on or about June 9, 2015; a true and correct copy is  
6 attached as **Exhibit K**.

7           Judicial Notice of Exhibit A is proper because this document is a true and  
8 correct copy of a document which is referred to, attached to, or forms the basis of  
9 the allegations in the Complaint. *Marder v. Lopez*, 450 F.3d 445, 448 (9th Cir.  
10 2006); *Branch v. Tunnell*, 14 F.3d 449, 453-54 (9th Cir. 1994) (documents that are  
11 not attached to the complaint may be incorporated by reference if the plaintiff has  
12 referred to the document in the complaint or if the document forms the basis for the  
13 plaintiff's claims).

14          Judicial Notice of Exhibits B-F is proper because these documents are true  
15 and correct copies of official public records of Orange County, California, and their  
16 authenticity is capable of accurate and ready determination by resort to sources  
17 whose accuracy cannot reasonably be questioned. Fed. R. Evid. 201(b); *Gamboa v.*  
18 *Tr. Corps & Cent. Mortgage Loan Servicing Co.*, 2009 U.S. Dist. LEXIS 19613, at  
19 \*4-10 (N.D. Cal. Mar. 12, 2009) (Court took judicial notice of recorded documents  
20 related to foreclosure sale, including grant deed and deed of trust. "These  
21 documents are also part of the public record and are easily verifiable. See Fed. R.  
22 Evid. 201(b); *Castillo-Villagra v. INS*, 972 F.2d 1017, 1026 (9th Cir. 1992) (holding  
23 that notice may be taken of facts capable of accurate and ready determination by  
24 resort to sources whose accuracy cannot reasonably be questioned"); *Velasquez v.*  
25 *GMAC Mortgage Corp.*, 605 F.Supp.2d 1049, 1058 (C.D. Cal. 2008).

26          Judicial Notice of Exhibits G-K is proper because these documents are true  
27 and correct copies of documents filed in *Sanders v. Bank of America, N.A., et al.*,  
28 Orange County Superior Court, Case No. 30-2014-00757782, and their authenticity

1 is capable of accurate and ready determination by resort to sources whose accuracy  
2 cannot reasonably be questioned. Fed. R. Evid. R. 201(b)(2).

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4 DATED: July 20, 2015

Respectfully submitted,

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MCGUIREWOODS LLP

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By: /s/ Adam F. Summerfield

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Adam F. Summerfield

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Attorneys for Defendant

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Bank of America, N.A.

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## **CERTIFICATE OF SERVICE**

2 I hereby certify that on July 23, 2015, I electronically filed the foregoing  
3 document entitled **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF**  
4 **MOTION TO DISMISS PLAINTIFFS' INITIAL COMPLAINT, FILED BY**  
5 **DEFENDANT BANK OF AMERICA, N.A.** with the Clerk of the Court for the  
6 United States District Court, Central District of California using the CM/ECF  
7 system and served a copy of same upon all counsel of record via the Court's  
8 electronic filing system.

By: /s/ Adam F. Summerfield